IN THE HIGH COURT OF JUDICATURE AT BOBBY

O.O.C.J.

WRIT PETITION NO. 1336 OF 2006

M/s. Housing Development and Improvement Corporation. ... Petitioners.

vs.

The Municipal Corporation of Greater Mumbai and Others. ... Respondents.

....

Mr. R.M. Nakhawa with Mr. V.B. Dhavan for the Petitioner.

Mrs. Trupti Puranik for Respondent Nos.1 and 2.

....

CORAM : DR. D.Y.CHANDRACHUD,J.

23RD JANUARY 2007.

P.C. :

1. The Petitioners claim to be holders and occupiers of Land bearing Survey No.169(Part) 170, 171 and 175 (Part) of Village Majas, Jogeshwari (East), Mumbai - 400 069. The property is assessed by the Municipal Corporation under Ward No.KE-4696(8BS-GGA) 4696(8BS-GGB).

2. The Petitioner has developed the property by constructing a building thereon consisting of Wings

'A' to 'F'. A Co-operative Housing Society has been formed of the flat purchasers. On 21st February 2004, the Second Respondent, who is the Assistant Assessor and Collector of K(East) Ward, issued two Special Notices under Section 167 of the Mumbai Municipal Corporation Act, 1888 proposing to revise the rateable value to Rs.6,65,560.00. In paragraph 3(h) of the Petition, it has been stated that the Special Notices were received by the Petitioner on 15th March 2004. The Petitioner lodged an objection with the Assistant Assessor and Collector by a letter dated 17th March 2004. The objection was acknowledged on 22nd March 2004. The acknowledgement dated 22nd March 2004 (bearing Inward No.50200) has been produced before the Court. In a subsequent letter dated 30th November 2004 to the Second Respondent, the Petitioners adverted to the aforesaid acknowledgment. On 14th March 2005, the Second Respondent passed an order fixing the rateable value at Rs.5,00,295/- with effect from 1st April, 2005. The property was thereupon attached under a Warrant of Attachment dated 23rd December 2005.

3. The grievance of the Petitioner is that though the complaint was lodged on within 15 days, as stipulated in law, of the receipt of the Special Notice, it has not been registered or dealt with on merits.

4. On 5th June 2006, Rule was issued on the Petition. The Rule was made returnable in two weeks having regard to the short question that is raised. On 18th December 2006, the hearing of the Petition was adjourned. No reply has been filed by the Municipal Corporation for nearly seven months. There is no reason why a further adjournment should be granted as prayed.

5. Having regard to the averments in the Petition which are not controverted, the Court will have to proceed on the basis that the Special Notices were received on 15th March 2005 upon which a complaint was lodged on 22nd March 2004. The complaint was within time and ought to have been registered and disposed of on merits.

6. There shall accordingly be a direction that the Second Respondent shall register the complaint which has been lodged on behalf of the Second Respondent on 22nd March 2004 and dispose it of in accordance with law after furnishing to the Petitioner an opportunity of a hearing. Until the objection is heard and disposed of and for a period of 4 weeks thereafter, the interim order dated 5th June 2006 passed in these proceedings shall continue to operate. Counsel appearing on behalf of the Petitioners states that in the meantime, all the property taxes upto date have been paid. If that be so, it is needless to state that if the rateable value is revised after hearing the Petitioners, the Petitioners shall be entitled to such adjustment as is admissible in law.

7. The Petition is disposed of in these terms.

No order as to costs.